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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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AUG 11 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Section 309(j)
of the Communications Act -
Competitive Bidding)

PP Docket No. 93-253

Amendment of the Commission's
Cellular-PCS Cross-Ownership Rule)

GN Docket No. 90-314

Implementation of Section 3(n)
and 332 of the Communications Act)
Regulatory Treatment of Mobile
Services)

GN Docket No. 93-252

DOCKET FILE COPY ORIGINAL

To: The Commission

REQUEST FOR COMMISSION TO INITIATE INQUIRY
BY ITS OWN MOTION TO DETERMINE OMNIPPOINT'S ELIGIBILITY
AS APPLICANT IN PCS C BLOCK AUCTION

Cook Inlet Region, Inc. ("CIRI"), by its attorneys and pursuant to Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, and in accordance with the Commission's authority under 47 U.S.C. § 403, hereby requests that the Commission initiate an inquiry on its own motion to determine whether Omnipoint Corporation ("Omnipoint") is or will be a qualified applicant in the personal communications service C Block auction.

In Omnipoint Corporation v. FCC, D.C. Cir. No. 95-1374, Omnipoint has petitioned for review of the Sixth Report and Order¹ and has requested and obtained a judicial Stay of the

1. Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Sixth Report and Order, PP Docket No. 93- (continued...)

Sixth Report and Order on the grounds that it prevents or prejudices Omnipoint's opportunity to participate in the Block C auction. Thus, Omnipoint has brought the Block C auction to a halt, causing delay that is (a) costly and perhaps fatal to many parties intending to participate in the auction, (b) damaging to the public interest by foreclosing the opportunity for maximum competition from small businesses, and (c) threatening seriously to diminish the amount to be realized by the Federal Treasury from the C block auction when it is ultimately held.

However, at no point has Omnipoint provided the Commission, the Court, or the other parties with any evidence either (a) that it is qualified to participate in the auction under 47 C.F.R. §§ 24.709 and 24.720(g), or (b) if qualified, that it will file in that auction utilizing the 49% equity structure that it has challenged in the Court of Appeals.

Omnipoint is the holder of a Block A license for New York. In view of the fact that the A/B block auction demonstrated an auction value for a New York license of more than \$440 million when the bidding ended last March, there is substantial question whether Omnipoint could meet the eligibility cap of total assets of \$500 million under 47 C.F.R. § 24.709(a)(1). Presumably, the value of Omnipoint's New York license has increased since the auction, particularly since the C block auction has been so long delayed. Probably, Omnipoint has substantial additional assets

1.(...continued)

253, FCC 95-301 (rel. July 18, 1995), 60 Fed. Reg. 37786 (July 21, 1995).

beyond the value of its bare license, such as (a) investment in Research and Development Costs; (b) Property, Plant and Equipment (it has a technology center in Colorado Springs, a headquarters in Arlington, Virginia, and offices in Dallas, Boston and Northern California); (c) contracts with Nortel,² Pacific Bell Mobile,³ and JRC International;⁴ (d) Cash; (e) stock owned in other companies,⁵ etc. Based on the factors listed above, Omnipoint's total assets probably approach or exceed \$600 million and thus disqualify it from Block C entirely.

At no point has Omnipoint stated categorically to the Commission or to the Court of Appeals that it will apply in the Block C auction using the 49% official equity structure (assuming that it is qualified to participate at all).

Omnipoint must not be allowed further to delay the Block C auction if it is not qualified to participate or it is not going to use the 49% structure that it has complained about to the Court of Appeals. The Commission should therefore:

(a) address the attached questions to Omnipoint by facsimile or hand delivery today; and

2. Omnipoint Press Release, dated October 5, 1994.

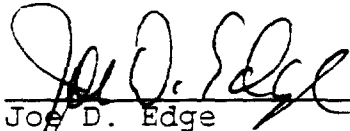
3. Communications Daily, "Pacific Bell and Omnipoint Signed Roaming Agreement," vol. 15, p. 7, May 31, 1995.

4. PCS Week, "JRC to License Omnipoint Technology, Build Handsets," July 26, 1995.

5. Exhibit 4, FCC Form 401 Application, by Omnipoint Communications, Inc., dated April 27, 1994.

(b) require Omnipoint to respond by facsimile or hand delivery by 4:00 p.m. on Monday, August 14 so that its responses may be presented to the Court by 4:00 p.m. on Tuesday, August 15 in connection with pending motions of CIRI and GO.

Respectfully submitted,



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Attorneys for
COOK INLET REGION, INC.

Dated: August 11, 1995

**QUESTIONS FOR COMMISSION INQUIRY INTO
OMNIPPOINT'S C BLOCK AUCTION BIDDER ELIGIBILITY**

The Commission should require documentation to support the following questions. Unless the context clearly indicates otherwise, references to "Omnipoint" include Omnipoint Corporation, Omnipoint Communications, Inc., their affiliates and those having an interest in either of them. Where the term "value" is used, provide both the book value and current fair market value.

1. Is Omnipoint financially eligible to participate in the C Block auction as a controlling partner of a 50.1 percent equity partnership? If it claims to be, demonstrate by specific facts.
2. Does Omnipoint have or is it developing a C Block bidding partnership under any equity model? If it claims to be, demonstrate by specific facts.
3. Was this partnership prepared to bid at the time of the Sixth Report and Order?
4. Will additional time permit Omnipoint to finalize an agreement to bid in the C Block auction under the 50.1 percent model? Describe any action taken by Omnipoint to negotiate such an agreement after the release of the Sixth Report and Order.
5. What is the value of the total assets of Omnipoint?
6. What is the value of Omnipoint's New York MTA PCS license?
7. What is the value of Omnipoint's property, plant, equipment and investment in research and development?
8. What is the amount of cash and cash equivalents on the books of Omnipoint?
9. What is the value of all investments of Omnipoint?
10. What is the amount of equity and debt on the books of Omnipoint? Describe any options, puts, calls or similar instruments presently outstanding or to be issued.
11. What is the value of any contracts presently existing or to be entered into by Omnipoint prior to January 1, 1996?

12. What is the value of any assets (on the books or off balance sheet) held by Omnipoint in addition to those described above?
13. Describe all vendor financing arrangements for Omnipoint's New York MTA PCS system presently existing or to be entered into in the future.
14. Describe and state the value of the assets required by Omnipoint to construct its New York MTA PCS system over the next five years. Provide projections of revenues, expenses, and income over such five-year period.
15. Provide all auditors' workpapers describing any financial issues facing Omnipoint.
16. Provide copies of any private placement memoranda for equity or debt (or similar documents), and any drafts thereof, prepared by or for Omnipoint.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Request For Commission To Initiate Inquiry By Its Own Motion To Determine Omnipoint's Eligibility As Applicant In PCS C Block Auction has been served by hand delivery on the 11th day of August, 1995 upon:

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The Honorable Andrew C. Barrett
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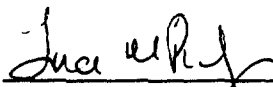
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